

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MORRIS DEVON SMITH,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case No. 3:18-cv-01684-K
	§	
CITY OF DALLAS, <i>et al.</i> ,	§	
	§	
Defendants.	§	

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

The Court has under consideration the Findings, Conclusions, and Recommendation of United States Magistrate Judge Rebecca Rutherford dated December 21, 2018. The Court has reviewed the Findings, Conclusions, and Recommendation for plain error. Finding none, the Court accepts the Findings, Conclusions, and Recommendation of the United States Magistrate Judge.

IT IS THEREFORE ORDERED that Defendants' Motion to Dismiss (ECF No. 12) is GRANTED. Because it is not clear that all the defects in Smith's claims against the City are incurable, and Smith has not advised the Court that he is unwilling or unable to amend his complaint in a manner that will avoid dismissal, the Court should grant Smith one final opportunity to state a claim that survives dismissal. *Great Plains Tr. Co. v. Morgan Stanley Dean Witter & Co.*, 313 F.3d 305, 329 (5th Cir. 2002) (noting that it is appropriate for district courts to afford plaintiffs at least one opportunity to

cure pleading deficiencies before dismissing a case, unless it is clear that the defects are incurable or the plaintiffs advise the court that they are unwilling or unable to amend in a manner that will avoid dismissal). If Smith does not file an amended complaint within 14 days of any Order accepting these findings, conclusions, and recommendation, the case should be dismissed with prejudice.

SO ORDERED.

Signed January 17th, 2019.



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UNITED STATES DISTRICT JUDGE